

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. NATIONAL ACCESS LONG DISTANCE, LLC, Respondent.	DOCKET NO. FCU-04-13
--	----------------------

**ORDER DOCKETING FOR FORMAL PROCEEDING
AND REQUESTING RESPONSE**

(Issued March 17, 2004)

On February 16, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider civil penalties pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution in C-03-257, involving National Access Long Distance, LLC (National Access), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which are a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On December 15, 2003, Mr. John Schreiber filed a complaint with the Board alleging that National Access switched his business long distance service from

Telecom USA to National Access without his authorization. Board staff identified the matter as C-03-270 and, pursuant to Board rules, on December 17, 2003, forwarded the complaint to National Access for response.

National Access responded to the complaint on January 13, 2004, stating that its record showed that one of its sales agents spoke with Ms. Dawn Thompson, identified as the office manager, on November 18, 2003, regarding changing Ac'cent Kitchens' long distance service to National Access and that Ms. Thompson agreed to switch Ac'cent Kitchens' long distance service. National Access also stated that a third-party verification was obtained to authenticate the sale. National Access provided a copy of the third-party verification and stated that it had issued a credit totaling \$17.82 to Ac'cent Kitchens.

On January 15, 2004, Board staff forwarded a copy of the third-party verification to Mr. Schreiber asking that he and Ms. Thompson review the tape and respond in writing as to its authenticity. A response was received from Mr. Schreiber on January 29, 2004, stating that he is the owner and only employee of Ac'cent Kitchens and does not employ Ms. Thompson as an office manager.

On February 2, 2004, Board staff issued a proposed resolution describing these events and proposing that the credit offered by National Access represented a fair resolution of the situation. No party other than Consumer Advocate has challenged the staff's proposed resolution.

In its February 16, 2004, petition, Consumer Advocate asserts that sufficient reasons exist to merit an investigation into the matter. Consumer Advocate requests that the Board docket this complaint for a formal proceeding and impose civil

penalties on National Access. National Access has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds that there is sufficient information to warrant further investigation in this matter. The Board will delay establishing a procedural schedule until April 19, 2004, and allow National Access the opportunity to respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on February 16, 2004, identified as Docket No. FCU-04-13, is granted and docketed for formal proceeding.
2. National Access Long Distance, LLC, is directed to file a response to Consumer Advocate's petition on or before April 19, 2004.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 17th day of March, 2004.